

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26569 of 2003

Between:

A. Narayana Swamy Naidu s/o Yerraiyah Naidu, Business, R/o Door No. 13-
12-14, Peddakapu Street, Tirupati, Chittoor District,

... PETITIONER

AND

- 1 A.P. State Road Transport Corporation rep by Managing Director,
Azamabad, Musheerabad, Hyderabad
- 2 The Regional Manager A.P. State Road Transport Corporation,
Tirupati, Chittoor district
- 3 The Depot Manager, APSRTC, Central Bus Station, Tirupati

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, more particularly a Writ in the nature of mandamus declaring the action of the respondents in not extending the lease/licence period for a further period of three years as was contained in the Circular no. 83/03 OPD (C) 29-10-2003 of the 1st respondent to the petitioner though the same benefits were extended to similarly placed co-businessmen, as being illegal, arbitrary, discriminatory as being violative of Article 14 19 and 21 of the Constitution of India and consequently direct the respondents to extend the benefits of the Circular dt 29-10-2003 by extending the lease period for a further period of three years in the interest of justice

Counsel for the Petitioner: MR.D.SESHADRI NAIDU

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following order:

ORDER:

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Petitioner is a petty trader, who has been granted licence by the respondent corporation for sale of fancy items at Shop No.20, situated in Central Bus Station, APSRTC, Tirupati for a period of three years commencing from 23.12.2000 to 23.12.2003.

No doubt, the petitioner has no right to get the renewal of the licence after expiry of the lease period of three years. But on certain representations received from the existing licencees of shops, stalls and other accommodation, the first respondent corporation issued a Circular No.83/2003-OPD(C) dated 29.10.2003 for the extension of the period of licences of such shops, stalls etc. for a period of three more years to complete the maximum licence period of six years in respect of the traders who occupied the shops prior to 01.03.2003.

Admittedly, petitioner is one of the licence holders prior to 01.03.2003. The extension of the licence for a further period of three years is decided to be granted subject to the condition that licence fee shall be increased by 30 % in the 4th year, 25 % in the 5th year and 20% in the 6th year over the licence fee payable in 3rd, 4th & 5th year of licence. The respondent corporation entered into the said agreement with the licensee, for the extended period of licence i.e., for a period of three years, for the existing business only. The licensee shall vacate the premises after completion of six years of licence period. The only reason for not extending the licence period in favour of the petitioner is that he committed default in payment of the licence fee and used to pay the said fee belatedly.

Merely because the petitioner paid the regular licence fee with a little delay it cannot be said

that he has violated the terms and conditions of the licence or that there is a prohibition for the extension of the licence, as per the said circular dated 29.10.2003. In the instant case, without any justification the licence was not extended in favour of the petitioner but, on the other hand, tenders were called for and one Mr. A. Reddappa Chowdary, quoted highest amount as monthly licence fee to take the said shop of the petitioner. But as per the counter the said, Mr. Reddappa Chowdary, did not deposit the balance Security Deposit and therefore, the said shop was not allotted in his favour.

This Court granted interim direction in WPMP.No.33643 of 2003 dated 22.12.2003 directing the respondents not to interfere with the petitioner's conduct of the business in the said shop. But on the same day of the order the respondents have taken over the possession of the shop as the petitioner's licence period expired on 22.12.2003 itself. It is stated that the said shop has not been allotted to anybody and the petitioner is entitled for the extension of his licence period as per the said circular of the first respondent. Therefore, I am of the opinion that the petitioner is entitled for the extension of his licence period subject to the increased payment of the licence fee as per instruction II of the said circular.

Accordingly, I am of the opinion that the action of the respondents in not considering the request of the petitioner for extension of the licence period for a further period of three more years is illegal and unsustainable and the respondents are directed to extend the licence period in favour of the petitioner as per the conditions of the Circular No.83/2003-OPD(C) dated 29.10.2003 of the Vice-Chairman and Managing Director of the respondent corporation.

The writ petition is accordingly allowed. No costs.

V. ESWARAIAH, J

March 18, 2005

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this
Friday the Eighteenth day of March Two thousand and Five.

To

- 1 The Managing Director, A.P. State Road Transport Corporation
Azamabad, Musheerabad, Hyderabad.
- 2 The Regional Manager A.P. State Road Transport Corporation,
Tirupati, Chittoor District.
- 3 The Depot Manager, APSRTC, Central Bus Station, Tirupati
- 4 Two CD Copies.